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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/818,955	03/27/2001	Koji Nishi	P/2850-47	9861

7590 02/09/2007
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NEW YORK, NY 10036

EXAMINER

CHANKONG, DOHM

ART UNIT	PAPER NUMBER
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2152

MAIL DATE	DELIVERY MODE
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02/09/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

09/818,955

Applicant(s)

NISHI, KOJI

Examiner

Dohm Chankong

Art Unit

2152

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 January 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).


4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: 3 and 5-7.
Claim(s) rejected: 1, 2, 4 and 8-18.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


BUNJOB JAREENCHONWANIT
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: Applicant's arguments have been considered but are not persuasive. Applicant argues that Giese does not disclose a broker device provided at a functional host layer of the management devices. As discussed before, Applicant's specification provides absolutely no description of what is meant by "functional host layer." The term is therefore given its broadest reasonable interpretation. Giese's exchange agent (corresponding to Applicant's broker device) is located between the contact agent and the transport agent within the ECS layer. The Office interprets that the agent is located at functional host layer of the ECS layer because the exchange agent is responsible for initiating and maintaining communication sessions. If Applicant continues to assert that the exchange agent is not located at the functional host layer, the Office requests where in the Applicant's specification that describes the functional host layer term in such a way that distinguishes from the Office's interpretation.

Applicant further argues that the exchange agent does not receive service information and domain information. Giese however discloses that the exchange agent "uses the party profiles 24 and the multimedia requirements stated in the communication primitives to synchronize the events between any devices that parties may use and transport services." This functionality is analogous to receiving service information. In addition, the exchange agent is involved in "domain-by-domain negotiation of service contracts involving securing connection resources in each domain. In order to maintain session signaling to the greatest extent possible, it is the responsibility of the Exchange Agent 12 to initiate, negotiate and secure a transport contact, in terms of service level agreements (SLAs), that reflect the application session requirements" [column 13 "lines 21-28"]. This is analogous to domain information.

Applicant further argues that Giese does not select route information because the exchange agent is path independent. However, being path independent does not preclude selecting route information. Giese's exchange agent is still responsible for "navigational and inter-operation capabilities implemented by means of service and network abstractions" [column 12 "lines 58-60"]. Specifically, the exchange agent selects "devices...from the originating and receiving parties' profiles 24 (provided by the Contact Agent 10) that best meet the communication requirements defined in the communication primitives (i.e the originating party's communication goals). This determines endpoint devices involved in the application session 18" [column 13 "lines 61-67"]. The exchange agent thus selects the endpoints of the route; this corresponds to "route information."